

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

IAN POLLARD, on behalf of himself )  
and all others similarly situated, )  
  )  
Plaintiffs, )  
  )  
  )  
v.                                     ) Case No. 4:13-CV-00086-ODS  
  )  
REMINGTON ARMS COMPANY, LLC, et al. )  
  )  
Defendants. )  
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)

**DEFENDANTS' RESPONSE TO OBJECTION BY H.J. (JACK) BELK TO JOINT  
MOTION FOR CONDITIONAL CERTIFICATION OF SETTLEMENT CLASSES**

Defendants Remington Arms Company, LLC (“Remington”), E.I. du Pont de Nemours & Company (“DuPont”), and Sporting Goods Properties, Inc. (“SGPI”) hereby respond to the January 28, 2015 Objection filed by H.J. (Jack) Belk, Jr. (Doc. 73) on February 3, 2015.<sup>1</sup>

Mr. Belk’s January 28, 2015 letter to the Court claims that he is an expert in firearms design. The letter also represents to the Court that the X-Mark Pro trigger mechanism is not a suitable retrofit for Remington rifles with Walker fire controls. Mr. Belk is not qualified to offer expert testimony as a firearms expert, and his representations to this Court about the X-Mark Pro stand in stark contrast to his prior sworn testimony and repeated public statements.

**I. LACK OF QUALIFICATIONS**

Mr. Belk now opines that the material (i.e., metal-injection molded, or MIM, material) used to fabricate X-Mark Pro trigger components is unsuitable for use in a firearm. Mr. Belk is not qualified by education, training, or experience to offer such an opinion.

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<sup>1</sup> Defendants maintain that is premature to consider objections at the preliminary approval stage but are submitting this response to assist the Court’s assessment of Mr. Belk’s letter.

Mr. Belk is a high school graduate who attended a gunsmith trade school in Colorado. *See* Doc. 73, Resume (“Education: Twelve years public schools in Florida.”) Mr. Belk has never taken any college courses in physics or engineering. *See* Exhibit A. By his own admission, he is not a mechanical engineer or a metallurgist, and he has no professional licenses. *Id.* Most of Mr. Belk’s work career has been devoted to working as a traveling salesman in fields unrelated to firearms design and manufacture. *Id.; see also* Doc. 73, Resume.

## **II. PRIOR TESTIMONY AGAINST REMINGTON AND OTHER FIREARM MANUFACTURERS**

Over the last twenty years, Mr. Belk has been hired by plaintiffs’ attorneys to testify against Remington and other firearms manufacturers. Mr. Belk has never been employed in any capacity to design firearms for manufacturers, and he has never been consulted by any manufacturer to assist in the design of a trigger mechanism or manual safety. Working for plaintiffs’ attorneys, Mr. Belk has offered testimony that firearms made by Remington, Winchester, Beretta, North American Arms, Weatherby, and Knight Rifles are defective in design or manufacture. *See* Exhibit B.

## **III. PRIOR TESTIMONY AND OTHER STATEMENTS ABOUT THE X-MARK PRO**

In his January 28 letter, Mr. Belk objects to the proposed class action settlement, claiming that the X-Mark Pro trigger mechanism is not “a suitable replacement for the Walker” trigger mechanism. This position is entirely inconsistent with Mr. Belk’s repeated endorsements of the X-Mark Pro trigger mechanism as a safe design and a suitable retrofit for rifles having Walker trigger mechanisms.

In October of 2010, Mr. Belk appeared on a CNBC program entitled “Remington Under Fire” in which he criticized the design of Remington Walker trigger mechanisms. Contemporaneous with that program, Mr. Belk took to the internet and promoted the CNBC

program. As part of his promotional activities for CNBC, Mr. Belk heartily endorsed the safety and reliability of Remington X-Mark Pro trigger mechanisms:

- “The MMI parts are plenty good enough and I prefer them to Ruger’s investment castings. Remington has always had a great finish on the active sear surface. DON’T touch it! It’ll take a hundred pulls for it to become the best it’ll be, but it’ll be it’s best for 50,000 more.”
- “The X-Mark Pro is a good trigger.”
- “My recommendation is to contact Remington for an X-Mark Pro trigger. . . . It’s a good trigger.”
- “CNBC is running a special this month. I post the following as a service to the gunsmith community.” In the article by Mr. Belk that followed, Mr. Belk stated “I have closely examined several X-Mark Pro triggers and their prototypes. It is as good as any trigger on the market and better than many.”
- “I recommend contacting Remington for the new X-Mark Pro for both guns. I don’t know availability, price, or process, but I do know it’s a good trigger.”
- “If the front of the trigger is slick, no grooves, it is an X-Mark Pro, and a very good trigger.”
- “I suggest contacting Remington to get the new X-Mark Pro trigger installed.”<sup>2</sup>

Mr. Belk has also testified under oath regarding the reliability and safety of the X-Mark Pro trigger mechanism:

- Q: And in your opinion, the X-Mark Pro was reasonably safe in design, is it not?  
A: It is.  
Q: And likewise, it is your opinion that the X-Mark Pro trigger mechanism is not defective in design; true?  
A: That is correct.<sup>3</sup>
- “The X-Mark Pro represents a technologically and economically feasible alternative design that should have prevented [the plaintiff’s] injuries in this case.”<sup>4</sup>

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<sup>2</sup> See Exhibit C.

<sup>3</sup> *Hull v. Remington*, November 11, 2010, attached as Exhibit D.

<sup>4</sup> *Bledsoe Report*, page 7, attached as Exhibit E.

#### **IV. CONCLUSION**

To the extent the Court is inclined to give any consideration to Mr. Belk's January 28 letter and/or any statements he may present to the Court during the February 4 preliminary approval hearing, Defendants respectfully request the Court consider Mr. Belk's lack of qualifications and prior unqualified endorsements of the X-Mark Pro. Defendants further respectfully request that the Court preliminarily approve the Parties' proposed settlement as outlined in their Joint Motion for Conditional Certification of Settlement Classes and Preliminary Approval of Class Action Settlement.

Respectfully submitted,

SHOOK, HARDY & BACON LLP

s/ John K. Sherk

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**Attorneys for Defendants Remington Arms Company, LLC, E.I. du Pont de Nemours & Company, and Sporting Goods Properties, Inc.**

**CERTIFICATE OF SERVICE**

I hereby certify that on this 3rd day of February, 2015, I filed the foregoing document with the clerk of the court using the court's CM/ECF system, which will serve electronic notice on all parties of interest.

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/s John K. Sherk

**Attorneys for Defendants Remington  
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